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8 Attorney for LAND AIR SEA SYSTEMS, INC.

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IN THE UNITED STATES DISTRICT COURT  
IN AND FOR THE EASTERN DISTRICT OF TEXAS  
HALL COURTHOUSE - MARSHALL DIVISION

VIRTUAL FLEET MANAGEMENT,  
L.L.C.,

Plaintiff

v

LAND AIR SEA SYSTEMS, INC.,

Defendant.

CASE NO.

**2:16-cv-01108-JRG**

HONORABLE J. RODNEY GILSTRAP  
United States District Court Judge  
District Court Judge Presiding

DATE:

TIME:

CTRM: 106

DECLARATION OF STEELE N. GILLASPEY  
LAND AIR SEA'S MOTION AND  
MEMORANDUM OF POINTS & AUTHORITIES  
IN SUPPORT OF RELIEF UNDER RULE 60[B]

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1 I, STEELE N. GILLASPEY, do state and declare as follows:

2 1. I am attorney and do represent the Defendant Land Air Sea Systems,  
3 Inc., in the above entitled action. I have personal knowledge of the following.

4 **EXHIBITS**

5 2. Attached hereto as EXHIBIT 1 is a true and correct copy of the US  
6 Patent Office, Patent Trial & Appeal Board, Decision on Institution of Inter Pares  
7 Review, Case No. 2015-00397, Mercedes v Proximity Re: Patent 6,958,701 (June  
8 14, 2015). I personally pulled a copy of this document from the USPTO. It is also  
9 noted that Plaintiff also provided a copy of this document in document exchange.

10 3. Attached hereto as EXHIBIT 2 is a true and correct copy of the US  
11 Patent Office, Patent Trial & Appeal Board, Petition for Inter Pares Review, Case  
12 No. 2015-00397, Mercedes v Proximity Re: Patent 6,958,701 (December 9, 2014)  
13 upon which the USPTO Institution Decision (Exhibit 1, above) was based. I  
14 personally pulled a copy of this document from the USPTO.

15 4 Attached hereto as EXHIBIT 3 s a true and correct copy of the US  
16 Patent Office, Patent Trial & Appeal Board, Petition for Inter Pares Review, Case  
17 No, 2017-00845, Unified v Virtual Re: Patent 6,958,701 (February 2, 2017). I  
18 personally pulled a copy of this document from the USPTO.

19 5. Attached hereto as EXHIBIT 4 s a true and correct copy of the US  
20 Patent Office, Patent Trial & Appeal Board, Termination of Proceeding (Before  
21 Ruling on Merits) of Inter Pares Review, Case No, 2017-00845, Unified v Virtual Re:  
22 Patent 6,958,701. I personally pulled a copy of this document from the USPTO.

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**REQUESTS FOR JUDICIAL NOTICE**

6. In accord with *Fed.R.Evid*, 201[b][2], it is respectfully requested that the Court take judicial notice of the filing of US Patent Office, Patent Trial & Appeal Board, Decision on Institution of Inter Pares Review, Case No. 2015-00397, Mercedes v Proximity Re: Patent 6,958,701 (June 14, 2015). Same is an official record of the USPTO and can be readily determined from a source whose accuracy cannot be reasonably questioned.

7. In accord with *Fed.R.Evid*, 201[b][2], it is respectfully requested that the Court take judicial notice of the filing of US Patent Office, Patent Trial & Appeal Board, Petition for Inter Pares Review, Case No, 2017-00845, Unified v Virtual Re: Patent 6,958,701 (February 2, 2017). Same is an official record of the USPTO and can be readily determined from a source whose accuracy cannot be reasonably questioned.

8. In accord with *Fed.R.Evid*, 201[b][2], it is respectfully requested that the Court take judicial notice of the filing of US Patent Office, Patent Trial & Appeal Board, Termination of Proceeding (Before Ruling on Merits) of Inter Pares Review, Case No, 2017-00845, Unified v Virtual Re: Patent 6,958,701. Same is an official record of the USPTO and can be readily determined from a source whose accuracy cannot be reasonably questioned.

9. In accord with *Fed.R.Evid*, 201[b][2], it is respectfully requested that the Court take judicial notice of the fact that the case of *Proximity v AssetWorks*, Case No. 2014-00575 (ded) which involved claims of infringement of Patent 6,958,701 (also the subject matter patent of this action) was dismissed after the 2014 filing of USPTO IPR in Mercedes v Proximity. Same is an official record of the US District Court (Delaware) and can be readily determined from a source whose accuracy cannot be reasonably questioned.

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1           10. In accord with *Fed.R.Evid*, 201[b][2], it is respectfully requested that the  
2 Court take judicial notice of the fact that the case of *Proximity v Mercedes*, Case No.  
3 2014-00576 (ded) which involved claims of infringement of Patent 6,958,701 (also  
4 the subject matter patent of this action) was dismissed after the 2014 filing of  
5 USPTO IPR in Mercedes v Proximity. Same is an official record of the US District  
6 Court (Delaware) and can be readily determined from a source whose accuracy  
7 cannot be reasonably questioned.

8           11. In accord with *Fed.R.Evid*, 201[b][2], it is respectfully requested that the  
9 Court take judicial notice of the fact that the case of *Proximity v Voxx*, Case No.  
10 2014-00577 (ded) which involved claims of infringement of Patent 6,958,701 (also  
11 the subject matter patent of this action) was dismissed after the 2014 filing of  
12 USPTO IPR in Mercedes v Proximity. Same is an official record of the US District  
13 Court (Delaware) and can be readily determined from a source whose accuracy  
14 cannot be reasonably questioned.

15           12. In accord with *Fed.R.Evid*, 201[b][2], it is respectfully requested that the  
16 Court take judicial notice of the fact that the case of *Virtual Fleet v Telogis*, Case No.  
17 2016-00592 (txed) which involved claims of infringement of Patent 6,958,701 (also  
18 the subject matter patent of this action) was dismissed after the 2015 filing of  
19 USPTO IPR Decision in Mercedes v Proximity. Same is an official record of the US  
20 District Court (Delaware) and can be readily determined from a source whose  
21 accuracy cannot be reasonably questioned.

22           13. In accord with *Fed.R.Evid*, 201[b][2], it is respectfully requested that the  
23 Court take judicial notice of the fact that the case of *Virtual Fleet v US Fleet*, Case  
24 No. 2016-00647 (txed) which involved claims of infringement of Patent 6,958,701  
25 (also the subject matter patent of this action) was dismissed after the 2015 filing of  
26 USPTO IPR Decision in Mercedes v Proximity. Same is an official record of the US  
27 District Court (Delaware) and can be readily determined from a source whose  
28 accuracy cannot be reasonably questioned.

1           14. In accord with *Fed.R.Evid*, 201[b][2], it is respectfully requested that the  
2 Court take judicial notice of the fact that the case of *Virtual Fleet v Fleetilla*, Case No.  
3 2016-00646 (txed) which involved claims of infringement of Patent 6,958,701 (also  
4 the subject matter patent of this action) was dismissed after the 2015 filing of  
5 USPTO IPR Decision in Mercedes v Proximity. Same is an official record of the US  
6 District Court (Delaware) and can be readily determined from a source whose  
7 accuracy cannot be reasonably questioned.

8           15. In accord with *Fed.R.Evid*, 201[b][2], it is respectfully requested that the  
9 Court take judicial notice of the fact that the case of *Virtual Fleet v Actsoft*, Case No.  
10 2016-01075 (txed) which involved claims of infringement of Patent 6,958,701 (also  
11 the subject matter patent of this action) was dismissed after the 2015 filing of  
12 USPTO IPR Decision in Mercedes v Proximity. Same is an official record of the US  
13 District Court (Delaware) and can be readily determined from a source whose  
14 accuracy cannot be reasonably questioned.

15           16. In accord with *Fed.R.Evid*, 201[b][2], it is respectfully requested that the  
16 Court take judicial notice of the fact that the case of *Virtual Fleet v Clever*, Case No.  
17 2016-01107 (txed) which involved claims of infringement of Patent 6,958,701 (also  
18 the subject matter patent of this action) was dismissed after the 2015 filing of  
19 USPTO IPR Decision in Mercedes v Proximity. Same is an official record of the US  
20 District Court (Delaware) and can be readily determined from a source whose  
21 accuracy cannot be reasonably questioned.

22           17. In accord with *Fed.R.Evid*, 201[b][2], it is respectfully requested that the  
23 Court take judicial notice of the fact that the case of *Virtual Fleet v Position*, Case  
24 No. 2017-00014 (txed) which involved claims of infringement of Patent 6,958,701  
25 (also the subject matter patent of this action) was dismissed after the 2015 filing of  
26 USPTO IPR Decision in Mercedes v Proximity. Same is an official record of the US  
27 District Court (Delaware) and can be readily determined from a source whose  
28 accuracy cannot be reasonably questioned.

1           18. In accord with *Fed.R.Evid*, 201[b][2], it is respectfully requested that the  
2 Court take judicial notice of the filing of US Patent Office, Patent Trial & Appeal  
3 Board, Petition for Inter Pares Review, Mercedes v Proximity Re: Patent 6,958,701  
4 (December 9, 2014), inclusive of exhibits filed with said Petition. Same is an official  
5 record of the USPTO and can be readily determined from a source whose accuracy  
6 cannot be reasonably questioned.

7 DATED: November 27, 2017

/s/ Steele N. Gillaspey

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9 Steele N. Gillaspey,  
10 Attorney for Defendant,  
11 LAND AIR SEA SYSTEMS

### 12 **Certificate of Service**

13 I hereby certify that on the 28th day of November, 2017, I electronically filed the Gillaspey  
14 Declaration Re: Defendant's Motion for Relief Under Rule 60 with the Clerk of Court using the  
15 CM/ECF system, which system will send notification of such filing to:

16 Joseph Pia  
17 Chrystal Mancuso Smith  
18 PIA ANDERSON  
19 136 E. South Temple, 19<sup>th</sup> Flr  
20 Salt Lake City, Utah 84111

21 /s/ Steele N. Gillaspey  
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